



THE ATTORNEY GENERAL
OF TEXAS

JIM SLATTON
ATTORNEY GENERAL

November 26, 1990

Mr. Alexander J. Gonzales
Acting Commissioner
State Board of Insurance
1110 San Jacinto
Austin, Texas 78701-1998

OR90-559

Dear Mr. Gonzales:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. On June 26, 1990, the State Board of Insurance received a request for all correspondence and internal memoranda relating to Michael Keogh. Your request has been designated ID# 9999.

The Keoghs were principals in an insurance company that has been in liquidation since 1989. You claim that sections 3(a)(3) and 3(a)(11) of the Open Records Act except the records from disclosure. As you point out, the letter from the Keoghs' attorney gives notice that he intends to sue the agency unless it ceases its activity with respect to their affairs. We agree that litigation is reasonably anticipated. Open Records Decision No. 346 (1982). The staff attorney assigned to the case has concluded that the records are relevant to the potential litigation. We have reviewed the records at issue and agree with that determination. A previous determination of this office, Open Records Decision No. 551 (1990), a copy of which is enclosed, resolves your request. For this reason, you may withhold the requested information under the authority of section 3(a)(3) of the Open Records Act.

If you wish to release them to the requestor, you may waive the protection of section 3(a)(3). Once any of the records become available to the opposing party through discovery or otherwise, section 3(a)(3) no longer applies to those items.

Because prior published open records decisions resolve your request, we are resolving this matter with this

informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR90-559.

Yours very truly,



Susan Garrison
Assistant Attorney General
Opinion Committee

SG/le

Ref.: ID# 9999, 10981

Enclosure: Open Records Decision Nos. 346, 551

cc: David Talbot
Chief, Finance Division

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